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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte PIETER J. VAN ZEE

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Appeal 2009-002169
Application 10/080,971
Technology Center 2100

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Before JOSEPH L. DIXON, JAY P. LUCAS, and STEPHEN C. SIU,
Administrative Patent Judges.

DIXON, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

The Appellant appeals under 35 U.S.C. § 134(a) from the Final

Rejection of claims 1-49. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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[1]The two-month time period for filing an appeal or commencing a civil
action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing,
as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE"
(paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery
mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF THE CASE

The Invention

The invention at issue on appeal relates to a method and a digital camera system for processing the digital data captured by a digital camera and metadata to an organized collection of files and directories (Spec. 3-4).

The Illustrative Claims

Claims 1 and 12, the illustrative claims, reads as follows:

    1.   A method for automatically processing digital image assets of a digital camera, comprising the steps of:

    receiving a set of assets and metadata from a digital camera that have been organized by the digital camera into a camera asset organization structure;

    automatically identifying a selected restructuring scheme from a plurality of restructuring schemes to use for processing the camera asset organization structure of the set of assets and metadata; and

    processing the set of assets and metadata using the selected restructuring scheme to convert the camera asset organization structure into a selected organization structure.

    12. An asset normalizing method for processing a collection of digital image assets of a digital camera where the collection of digital image assets are organized according to an asset organization scheme generated by the digital camera, comprising the steps of:

automatically matching the asset organization scheme of the
digital camera to a selected asset normalizer of a predetermined
set of asset normalizers; and

processing the collection of digital image assets of the digital
camera to a selected standard organization structure in
accordance with the selected asset normalizer.

The References

The Examiner relies on the following references as evidence:

Calia	US 5,450,504	Sept. 12, 1995
Kain	US 6,119,118	Sept. 12, 2000
Hossain	US 2003/0059199 A1	Mar. 27, 2003
		(filed Sept. 24, 2001)
Parulski	US 6,567,119 B1	May 20, 2003
		(filed Mar. 26, 1998)

The Rejections

The following rejections are before us for review:

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as being
unpatentable over Parulski in view of Kain.

Claims 12-33, 36-39, and 40-47 stand rejected under 35 U.S.C. §
103(a) as being unpatentable over Kain in view of Hossain.

Claims 34-35, and 48-49 stand rejected under 35 U.S.C. § 103(a) as
being unpatentable over Kain in view of Hossain, and further in view of
Calia.

3

II. ISSUES

1.   Has the Examiner erred in finding that the combination of Parulski and Kain teaches or fairly suggests "automatically identifying a selected restructuring scheme from a plurality of restructuring schemes to use for processing the camera asset organization structure of the set of assets and metadata; and processing the set of assets and metadata using the selected restructuring scheme to convert the camera asset organization structure into a selected organization structure" as recited in independent claim 1?

2.   Has the Examiner erred in finding that the combination of Kain and Hossain teaches or fairly suggests the limitations "automatically matching the asset organization scheme of the digital camera to a selected asset normalizer of a predetermined set of asset normalizers" and "processing the collection of digital image assets of the digital camera to a selected standard organization structure in accordance with the selected asset normalizer" as recited in claim 12?

III. PRINCIPLES OF LAW

Obviousness

"Obviousness is a question of law based on underlying findings of fact." *In re Kubin*, 561 F.3d 1351, 1355 (Fed. Cir. 2009). The underlying factual inquiries are: (1) the scope and content of the prior art, (2) the differences between the prior art and the claims at issue, (3) the level of ordinary skill in the pertinent art, and (4) secondary considerations of

nonobviousness. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (citation omitted).

IV. FINDINGS OF FACTS

The following findings of facts (FFs) are supported by a preponderance of the evidence.

Parulski

1.   Parulski discloses a digital camera system that a user can select the images to be processed and converted to the finished file format, such as the FlashPix format (col. 5, ll. 22-46; col. 5, ll. 46-62; Fig. 4).

Kain

2.   Kain discloses a method and system for handling request from a client for accessing one or more values for metadata attributers from at least one file system having an associated format containing special attributes. The request of the client is routed to an appropriate format agent that fulfils the request regarding metadata attributes to be returned to the client (col. 3, l. 40-col. 4, l. 11; col. 8, ll. 44-53).

Hossain

3.   Hossain discloses a method and system of creating and viewing a digital photo album on a TV with the use of DVD (Abstract). The system of Hossain uses a computer 14 to convert the digital image files into at least one of predetermined video standards such as VHS, DVD, and Internet Streaming Media standards ([0014], [0031]-[0032]).

V. ANALYSIS

The Appellant has the opportunity on appeal to the Board of Patent Appeals and Interferences (BPAI) to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

The Examiner sets forth a detailed explanation of a reasoned conclusion of unpatentability in the Examiner's Answer. Therefore, we look to the Appellant's Brief to show error in the proffered reasoned conclusion. *Id.*

The Common Feature in Claims

Independent claim 12, recites, *inter alia,* "automatically matching the asset organization scheme of the digital camera to a selected asset normalizer of a predetermined set of asset normalizers." Independent claim 36 contains these same limitations and independent claim 22 contains similar limitations.

35 U.S.C. § 103(a) rejections

With respect to independent claim 1, the Appellant contends that neither Parulsi nor Kain teaches the claimed automatically identifying a selected restructuring scheme from a plurality of schemes and manipulating the camera asset organization structure. In fact, Parulski describes how the image data can be converted from one format such as JPEG to another format, FlashPix, but does not relate to claimed restructuring schemes or

organization structures (App.Br. 12-13). Kain only teaches a method and
system for extending file system metadata. *Id.*

We agree with the Appellant's reading of the references and their
contentions. We find that the paragraphs of the Parulski reference relied
upon by the Examiner only discuss converting images into FlashPix format
(FF 1). The cited paragraphs do not mention using a selected restructuring
scheme to process the camera asset organization structure, let alone
automatically identifying a selected restructuring scheme from a plurality of
restructuring schemes, the limitations recited in claim 1. Nor do we find any
specific teaching of using a selected restructuring scheme to process the
camera asset organization structure, let alone automatically identifying a
selected restructuring scheme from a plurality of restructuring schemes, the
limitations recited in claim 1. In our view, we find the Examiner's
interpretation of converting an image format as a selected asset organization
structure to be too broad to be reasonable in light of Appellant's
Specification (Ans. 12).

> The PTO's construction here, though certainly broad, is
> unreasonably broad. The broadest-construction rubric coupled
> with the term "comprising" does not give the PTO an unfettered
> license to interpret claims to embrace anything remotely related
> to the claimed invention. Rather, claims should always be read
> in light of the specification and teachings in the underlying
> patent.

In re Suitco Surface, Inc., 603 F.3d 1255, 1260 (Fed. Cir. 2010) (citing
Schriber-Schroth Co. v. Cleveland Trust Co., 311 U.S. 211, 217, 61 (1940)).

We next look to the teachings of Kain. The Examiner in the Final
Rejection has merely relied upon Kain for the limitation of automatically
identifying a selected restructuring scheme from a plurality of restructuring
schemes (Ans. 3).   We find Kain only teaches that a computer system
chooses a format and associated metadata attributes according to the request
of a client, and returns the retrieved metadata attributes to the client (FF 2).
We disagree with the Examiner that choosing a format and metadata
attributes can be read on "automatically identifying a selected restructuring
scheme from a plurality of restructuring schemes" recited in claim 1 because
a format and metadata attribute of a computer file is clearly different from
restructuring scheme for a camera asset organization structure in light of the
Specification. Furthermore, the Kain reference deals with formats of
computer data, but not camera assets organization structures (FF 2). As such,
we conclude that the combination of Parulski and Kain fails to teach all
elements of claim 1.

We, therefore, find the Examiner's position is untenable.

Because we agree with at least one of the Appellant's contentions, we
find that the Examiner has not made a requisite showing of obviousness as
required to teach or fairly suggest the invention as recited in claim 1 by the
combined of Parulski and Kain. The rejection of the dependent claims 2-11
contains the same deficiency. The Appellant, thus, has demonstrated error
in the Examiner's proffered conclusion for obviousness of the subject matter
of claims 1-11.

With respect to claim 12, the Appellant contends that neither Kain nor Hossain teaches the claimed limitations "automatically matching the asset organization scheme of a digital camera . . ." or "processing the collection of digital image assets of the digital camera into a selected standard organization structure . . ." (Reply Br. 5). In particular, Kain is not concerned with a digital camera asset organization structures and does not re-organize such structures. *Id.* Hossain only teaches manually creating a digital photo album and converting the image data format to a TV format. *Id.*

We agree with the Appellant's contentions. As discussed above, Kain only teaches retrieving the metadata attributes for a format of a computer file (FF 2). Thus, Kain clearly do not relate the matching the asset organization scheme of a digital camera or processing the collection of digital image assets of the digital camera to a selected standard organization structure. Furthermore, Hossain deals with converting the formats of digital album into a TV format such as VHS standard (FF 3). We conclude that converting digital image files into video can not be read on the claimed limitation "processing the collection of digital image assets of the digital camera into a selected standard organization structure." Finally, both Kain and Hossain do not deal with a digital camera (FF 2 and FF 3), let alone the assets organization structure of a digital camera. We, therefore, find the Examiner's position is untenable.

Because we agree with at least one of the Appellant's contentions, we find that the Examiner has not made a requisite showing of obviousness as required to teach or fairly suggest the invention as recited in claim 12 by the

combined teachings of Parulski and Kain. The rejection of the dependent claims 13-21 contains the same deficiency. The Appellant, thus, has demonstrated error in the Examiner's proffered conclusion for obviousness of the subject matter of claims 12-21.

The independent claims 22 and 36 contain the similar limitations to those found in independent claim 12. The Appellant presents similar arguments as set forth with respect to independent claim 12 in response to the rejections of independent claims 22 and 36 (App. Br. 16).

As we found above in our discussion with respect to independent claim 12, we similarly find that the Appellant has demonstrated error in the Examiner's conclusion for obviousness of the subject matter of independent claims 22 and 36. The rejection of dependent claims 23-35, and 37-49 also contains the same deficiency. Hence, the Appellant's argument persuades us that the Examiner erred in rejecting claims 1-49.

We, therefore, cannot sustain the rejection of claims 1-49 under 35 U.S.C. § 103.

VI. CONCLUSION

We conclude that the Examiner has erred in finding that the combination of Parulski and Kain teaches or fairly suggests "automatically identifying a selected restructuring scheme from a plurality of restructuring schemes to use for processing the camera asset organization structure of the set of assets and metadata; and processing the set of assets and metadata using the selected restructuring scheme to convert the camera asset

organization structure into a selected organization structure" as recited in independent claim 1.

We also conclude that the Examiner has erred in finding that the combination of Kain and Hossain teaches or fairly suggests the limitations "automatically matching the asset organization scheme of the digital camera to a selected asset normalizer of a predetermined set of asset normalizers" and "processing the collection of digital image assets of the digital camera to a selected standard organization structure in accordance with the selected asset normalizer" as recited in claim 12.

VII. ORDER

We reverse the obviousness rejections of claims 1-49 under 35 U.S.C. § 103(a).

REVERSED

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